THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 4256 OF 2004

DATE: 1-8-2007

Damuluri Purnaiah ... Petitioner

And

1. The chairman, Board of Trustees,
Sri Uma Maheswara Swamy Vari Devastanam,
Gondriyala (v), Kodad (M), Nalgonda Dist
And 2 others .... Respondents

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 4256 OF 2004

ORDER:

Section 144 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act 30/87) abolished all rights, shares etc., which at the commencement of the Act, was payable to any Trustee, Dharmakartha, Mutawalli, office holder or servant including an Archaka or a Mirasidar. However the Government issued G.O.Rt..No.1103 dated 20.6.2002 exempting all Section 6 (c) temples from the purview of Section 144 of Act 30 of 1987 for a period of two years. This exemption was granted, consequent to the judgment of the Supreme Court in W.P.638 of 1987 and the orders passed in I.A.No.3 dated 9.5.1997. The period of exemption was subsequently extended, until further orders, vide G.O.Ms.No.1272 dated 27.6.2005. As a consequence of the aforesaid G.Os. enjoyment of the usufruct of the lands, which stood abolished under Section 144, enured to the benefit of the Archakas of Section 6(c) temples.

It is the specific case of the petitioner herein that it is from out of the lands, of an extent of Ac.11-15 guntas in Sy.Nos.329/1 and 329/2 of Gondriyala village, Kodad Mandal, Nalgonda District that the produce was being given to the petitioner towards the service rendered by him as an Archaka of the Sri Uma Maheswara Swamy Vari Devastanam, a Section 6(c) temple.

Learned Standing Counsel for Endowments would, however, place reliance on a letter addressed by the Chairman of the temple to the Assistant Commissioner of Endowments on 20.4.2001 that the lands belonging to the Devasthanam had been divided and allocated as 60% to the Devastanam Committee and 40% to the Poojari and that, as per the entitlement upto 23.3.2001, the lease

amount should be deducted from the share of those Archakas who had not rendered Archakatwam and that the same had been agreed upon. Even according to this agreement the lands in Sy.Nos.329/1 and 329/2, of an extent of Ac.11-15 guntas, fell within the 40% share, of the total extent of lands allotted to the Poojaries. The petitioner is aggrieved only by the fact that even this limited extent of land which was allotted to them, has also been put to auction, vide proceedings dated 28.2.2004.

In view of the fact that G.O.Rt.No.1103 dated 20.6.2002 exempted Section 6(c) temples from the purview of Section 144 of Act 30/87 and in the light of G.O.Ms.No.1272 dated 27.6.2005 whereby, the exemption granted under G.O.Rt.No.1103 dated 20.6.2002 for a period of two years, was extended until further orders, the petitioner herein would be entitled to the benefit of the produce from the lands in Sy.No.329/1 and 329/2 of an extent of Ac.11-15 guntas. The action of the respondents, in including these lands in the lease auction notice dated 28.2.2004, is contrary to the aforesaid government orders, and is arbitrary and illegal. The impugned lease auction notice, to the extent of Ac.11-15 Guntas of land allotted to the petitioner's share, is quashed.

The writ petition is allowed. However, in the circumstances, without costs.

_____

1-8-2007

asp